

No. 5:11-CV-168-BO

Defendant.

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

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DISCUSSION

The Court adopts the M&R because Plaintiff has failed to object to it and because the M&R is not in plain error.


Under § 1915, a claim proceeding *in forma pauperis* may be dismissed at any time if it is frivolous. § 1915(e)(2)(B)(i). A complaint is frivolous if “it lacks an arguable basis either in law or fact.” Neitzke v. Williams, 490 U.S. 319, 325 (1989). To make a frivolity determination, a court may designate a magistrate judge to submit proposed findings of fact and recommendations. 28 U.S.C. § 636(b)(1)(B). A district court is only required to review an M&R *de novo* if the plaintiff specifically objects to it or in cases of plain error. Id.; Thomas v. Arn, 474 U.S. 140 (1985).

Here, Plaintiff does object to the M&R. The M&R was also not in plain error. The Court thus adopts the M&R.

CONCLUSION

The Court ADOPTS the Magistrate Judge’s recommendations. Although Plaintiff’s motion to proceed *in forma pauperis* is ALLOWED, this matter is DISMISSED.

SO ORDERED, this 23 day of July, 2011.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE